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June 14, 2019

VIA ECF FILING

Hon. Katharine H. Parker
United States Magistrate Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, New York 10007-1312

Re: Kleeberg et al. v. Eber et al.
Case No. 1:16-cv-09517-LAK-KHP

Dear Magistrate Judge Parker:

Pursuant to your Order dated May 31, 2019 [Docket No. 225], my client, Canandaigua National Bank & Trust ("CNB") provides the following response.

When CNB sought to intervene, Plaintiffs' motion to amend the complaint was pending and John Herbert had set a purported deadline for CNB to deliver the stock to him for zero dollars. It was CNB's opinion that it had no choice but to get back in the case, if only for a very limited purpose. Now that the complaint has been amended and Plaintiffs have articulated in some detail (paragraphs 305 through 330) their claims challenging Lester Eber's efforts in regard to the stock, CNB has confidence that the issue, the final disposition of the stock, will be fully resolved in this forum. CNB is inclined to agree that it is not an indispensable party and the interpleader complaint [Docket No. 206] can be dismissed to preserve subject matter jurisdiction.

However, I would respectfully request that the Court, as a condition to dismissing the interpleader complaint, direct the remaining parties, over whom the SDNY will have jurisdiction, to confine their claims to the stock to the pending action. After the defendants answer Plaintiffs' latest amended complaint, the issues raised with Plaintiffs' claim will have been joined so it would be improper for the issue to be raised in another action in any event.

Respectfully yours,

WOODS OVIATT GILMAN LLP

A handwritten signature in black ink, appearing to read "DOB", is written over a stylized graphic element that resembles a large, bold letter "B" or a similar abstract shape.

Dan O'Brien

DOB/vat

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